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Docket No.: 243055US2

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COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 10/665,287

Applicants: Nobuaki KUBO

Filing Date: September 22, 2003

For: LIGHT SCANNING DEVICE, SCANNING LINE
ADJUSTING METHOD, SCANNING LINE
ADJUSTING CONTROL METHOD, IMAGE
FORMING APPARATUS, AND IMAGE FORMING
METHOD

Group Art Unit: 2861

Examiner: Hai Chi PHAM

SIR:

Attached hereto for filing are the following papers:

ELECTION OF SPECIES RESPONSE

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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DOCKET NO: 243055US2



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF

NOBUAKI KUBO : EXAMINER: PHAM, H.

SERIAL NO: 10/665,287 :

FILED: SEPTEMBER 22, 2003 : GROUP ART UNIT: 2861

FOR: LIGHT SCANNING DEVICE,
SCANNING LINE ADJUSTING METHOD,
SCANNING LINE ADJUSTING
CONTROL METHOD, IMAGE FORMING
APPARATUS, AND IMAGE FORMING
METHOD

ELECTION OF SPECIES RESPONSE

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Election of Species requirement dated August 20, 2004, the Applicants provisionally elect the Species II corresponding to Figures 16-20 and identify Claims 12-49 as readable on the provisionally elected species.

The Applicants respectfully traverse the election requirement.

First, the outstanding Official Action merely includes the conclusory statement that "the application contains claims directed to ... patentably distinct species ..." without stating any basis whatsoever in support of such a finding. This is in violation of MPEP §816, which states:

The particular reasons relied on by the examiner for holding the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given....

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Reply to Office Action of August 20, 2004

In the absence of any annunciated basis, it is respectfully submitted that the PTO clearly has not carried forward its burden of proof to establish distinctness.

Second, MPEP § 803 states:

... If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area. Accordingly, the Applicants also respectfully traverse the outstanding Election requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

Therefore, it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of Claims 12-49 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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